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17 MAY 1971

MEMORANDUM FOR: Deputy Director for Support

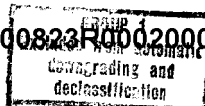
**SUBJECT : Civil Service Commission Proposed
Testimony on H. R. 7199 and S. 1438**

1. This memorandum is for information only.
2. Reference is made to the request for comments concerning the testimony of Chairman Robert E. Hampton of the Civil Service Commission in connection with his scheduled appearance before the Hanley Subcommittee on the Ervin Bill.
3. This Office supports the testimony wholeheartedly since Chairman Hampton urges that the security agencies, particularly CIA and NSA, "be completely excepted from the proposed legislation in the same way the Federal Bureau of Investigation is excepted in Section 9 of S. 1438".
4. Comments concerning the use of the polygraph in this Agency were set forth in my memorandum to you, dated 13 May 1971, Subject: Security Aspects of the Proposed "Invasion of Privacy Legislation". In the attachment to this memorandum, specific comments were made concerning Section 1 (k) of the proposed bill. Following are these comments:

Section 1 (k)

"Prohibits requiring an employee, under investigation for misconduct, to submit to interrogation which could lead to disciplinary action without the presence of counsel or other person of his choice if he so requests. In the case of CIA and

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NSA, counsel must be either another employee of, or approved by, the agency involved. This right inures to the employee when first questioned and does not require that the employee be accused of any wrongdoing before he may request presence of counsel or friend."

Comments:

Section 1 (k) is of concern not only to the Office of Security but to all components of the Agency which deal with personnel. Of particular interest to the Office of Security, however, are the programs of the Office concerning the personal problems of employees of the Agency. Over the years, employees of this Agency have come to the Office of Security seeking assistance regarding various problems. In many of the cases, other employees are involved and during the interviews with these employees, the provisions of Section 1 (k) above would in effect nullify, to a great extent, the Office of Security program in the handling of these problem cases. In those cases of employees involved in basic security problems, the provisions of Section 1 (k) would make it impossible for the Office of Security and the Agency to resolve these problems to the satisfaction of the Agency.

The polygraph interview is in effect an interrogation and strict adherence to Section 1 (k) above would allow each person polygraphed to have counsel present at these interrogations. One of the basic guidelines of the Office of Security in handling security personnel problem cases is the effort to keep the cases confidential and to prevent disclosure to unauthorized persons. In addition, some of these cases involve repercussions from the counterintelligence field and adherence to Section 1 (k) would prevent this Office from fulfilling its basic obligations.

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Howard J. Osborn
Director of Security

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